



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/485,820 | 02/16/2000 | NOBUHITO UEDA | Q057694 | 2221 |

7590

02/05/2002

SUGHRUE MION ZINN MACPEAK & SEAS
2100 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20037-3213

EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 02/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

| | | | |
|--------------------|-------------|-----------------------|------------------|
| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|--------------------|-------------|-----------------------|------------------|

| |
|----------|
| EXAMINER |
|----------|

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

12

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 11/4/87☒ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.☒ Claim(s) 1, 3-5, 7, 8, 11 & 12 is/are rejected.☐ Claim(s) _____ is/are objected to.☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on _____ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been☐ received.☐ received in Application No. (Series Code/Serial Number) _____☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

Receipt is acknowledged of response 11/21/01.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by 6001382.

The rejection of record is maintained.

Levy provides a multitude of delivery forms, but, at col. 10, the coatings are for regulation of pesticide release, and are water-soluble or partially water soluble inclusive of fatty alcohol or acids, and esters – col. 11 lists glycerol mono acetate, diacetats and triacetate; See example 1, although the Levy compounds are called coating they are admixed.

Claims 1, 3-5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murakami et al 50929053 in view of JP 08119803.

The rejection of record is maintained.

Applicant's arguments filed on 11/21/01 have been fully considered but they are not persuasive. Applicant's arguments are in essence that dictionary definitions and the urhding of the prior art, form a disconnect from the instant invention. Examiner finds the invention as claimed, broadly interpretable, is inclusive not only of the instant inventive unspecified in the claim compounds, but those of the prior art, too.

Levy is seen as anticipating; even through many compounds are provided it is clear one in the art would choose water soluble, biodegradable, or partially water soluble to optimize the conditions of interest, as a function of the location of

Art Unit: 1616

application, sink or float, duration of effective release for instance. As the instant invention uses the open comprising guise, all that's required is the presence of a hydroxyl compound in a powder, granule or some other water soluble solid form – a pesticide doesn't even have to be present, levy shows the coatings themselves may be pesticidally active.

Unfortunately, the Murakami reference also is seen as the instant claimed invention in the comprising guise – ethylene glycol, butanediol, glycerine meet the instant comprising guise, in examiner's opinion – the Murakami formulation comprises these (col. 3, lines 38-45) in wettable powders, granules etc. (col. 4, lines 58-60).

Examiner appreciates the translation, references, and attorneys commentary.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1616


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is 703-308-2412. The examiner can normally be reached on Tuesday to Friday from 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-4628. The fax phone number for the organization where this application or proceeding is assigned is 703-308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Levy/LR

January 24, 2002


**NEIL S. LEVY
PRIMARY EXAMINER**